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THIRD ANNUAL REPORT
of the
SURFACE RIGHTS BOARD
1974

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THIRD ANNUAL REPORT

of the

SURFACE RIGHTS BOARD

appointed under

THE SURFACE RIGHTS ACT

for the year 1974

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FEB 11 1975
EDMONTON

JOHN D. McARTHUR

Chairman

Members in Edmonton

K. J. SPREAD

C. H. NIELSEN

Members in Calgary

L. P. POLLARD

S. C. TIPPETT

A. W. BENEDIX

Honourable Dr. Hugh M. Horner,
Deputy Premier and Minister of Agriculture,
Edmonton, Alberta.

Sir:

I have the honour to submit the Third Annual Report of the Surface Rights Board for the calendar year 1974, pursuant to section 10 (a) of The Surface Rights Act.

The Expropriation Act which came into force on July 9, 1974, repealed The Expropriation Procedure Act, under which the Board had previously dealt with expropriations for pipe lines, power lines, power plants, dams, reservoirs, etc. There were substantial changes in the new Act in the procedure for expropriation and the Board's function in connection therewith.

There is no longer any application to the Board to commence expropriation proceedings. Instead, the company commences by filing a Notice of Intention to Expropriate in the appropriate Land Titles Office and by serving this document on all persons having an interest in the lands concerned. If an objection to the expropriation is lodged, the Board may hold an inquiry following which it would render a decision either approving the expropriation or refusing the expropriation or approving the expropriation with modifications. If the expropriation is approved, the Board issues a Certificate of Approval which is registered in the appropriate Land Titles Office. Upon registration of the Certificate of Approval, the expropriation of the right of way is complete and the owner then becomes a person entitled to compensation. It is anticipated that when the parties become more familiar with The Expropriation Act and the new procedures, the Board will encounter no serious problems in its function under the Act.

In the last calendar year, the Board issued five Certificates of Approval under The Expropriation Act, with several cases set down for inquiry in the first part of 1975.

During 1974, I attended a number of seminars and meetings throughout the province sponsored by different Surface Rights groups. Topics of discussion ranged from the protection afforded the land owner under present legislation to instruments filed at the appropriate Land Titles Office by mineral operators protecting their interest in land.

The Board held public hearings during the latter part of November and the first part of December at different centres throughout the province, for the purpose of receiving briefs and hearing representations with respect to:

(1) review of annual compensation or surface lease rentals under Board Orders or leases made prior to January 1, 1972,

(2) annual compensation or rental for above-ground structures connected with oil and gas pipe lines and power transmission lines, and

(3) any other matters of general interest relating to the above.

The hearings were well attended and numerous briefs were submitted during and after the hearings. A transcript of the hearings, together with the briefs, will be forwarded to you under separate cover.

During 1974 the Board received several letters requesting assistance in the recovery of compensation where a mineral operator had failed to pay any money under a surface lease or a compensation order made by the Board. I am pleased to report that the Board has been highly successful in obtaining payment by the mineral operators of these overdue amounts, thus greatly reducing the necessity of having these amounts paid out of the General Revenue Fund.

Statements A to J attached hereto indicate the combined number of applications dealt with by the Board in both its Edmonton and Calgary offices.

The following is a brief summary of applications dealt with by the Board in each of its two offices in 1974:

1. With respect to proceedings under The Surface Rights Act:

(a) (i) Edmonton

180 applications carried over from 1973 consisting of:

167 for right of entry,
2 for termination of right of entry in part, and
11 for termination of right of entry in full.

(ii) Calgary

216 applications carried over from 1973 consisting of:

213 for right of entry,
1 for termination of right of entry in part, and
2 for termination of right of entry in full.

(b) (i) Edmonton

265 applications received in 1974 consisting of:

195 for right of entry,
5 for termination of right of entry in part, and
65 for termination of right of entry in full.

(ii) Calgary

300 applications received in 1974 consisting of:

128 for right of entry, and
172 for termination of right of entry in full.

(c) (i) Edmonton

215 applications disposed of in 1974 consisting of:

159 for right of entry,
3 for termination of right of entry in part, and
53 for termination of right of entry in full.

(ii) Calgary

397 applications disposed of in 1974 consisting of:

232 for right of entry,
1 for termination of right of entry in part, and
164 for termination of right of entry in full.

(d) (i) Edmonton

230 applications outstanding at the end of 1974 consisting of:

203 for right of entry,
4 for termination of right of entry in part, and
23 for termination of right of entry in full.

(ii) Calgary

119 applications outstanding at the end of 1974 consisting of:

109 for right of entry, and
10 for termination of right of entry in full.

2. With respect to proceedings under The Expropriation Procedure Act;

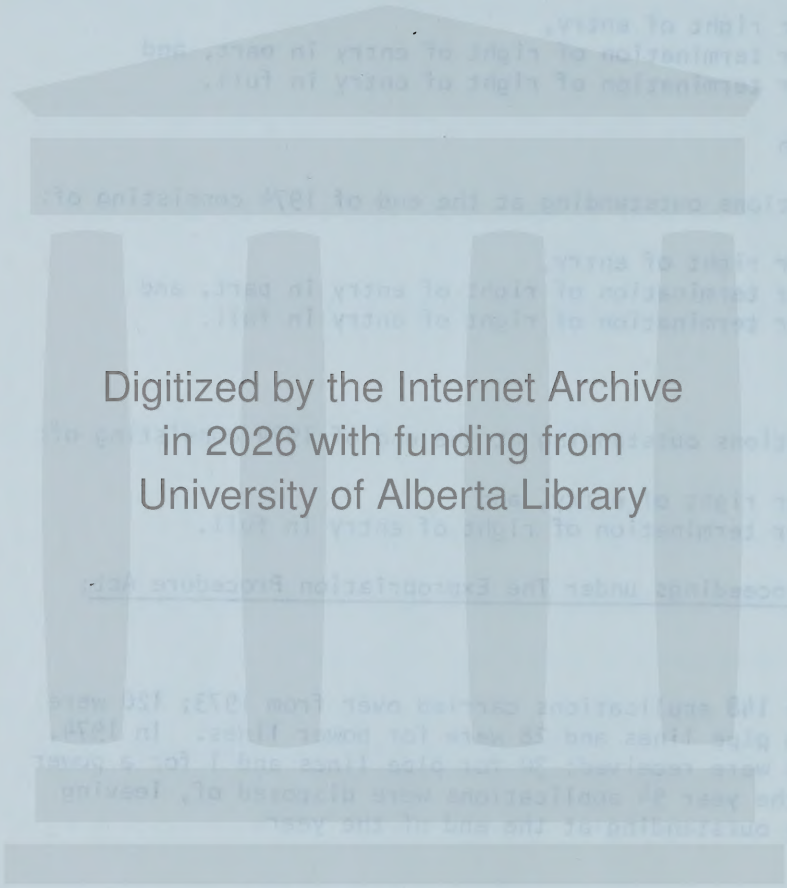
(a) Edmonton

There were 148 applications carried over from 1973; 120 were with respect to pipe lines and 28 were for power lines. In 1974, 31 applications were received; 30 for pipe lines and 1 for a power line. During the year 94 applications were disposed of, leaving 85 applications outstanding at the end of the year.

(b) Calgary

There were 89 applications carried over from 1973, most of which were transferred from the Public Utilities Board in 1972; 57 were with respect to pipe lines and 32 for power lines. In 1974, 30 applications were received for pipe lines. During the year 54 applications were disposed of, leaving 65 applications outstanding at the end of the year.

Detailed information on appeals from decisions of the Board on the amount of compensation and to whom payable is given in the attached statements K and L.



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In 1974 the Board issued a total of 1,066 orders relative to proceedings under The Surface Rights Act and 159 orders under The Expropriation Procedure Act.

In compliance with The Administrative Procedures Act, the Board made 152 decisions under The Surface Rights Act and 65 under The Expropriation Procedure Act, setting out the findings of fact upon which the Board based its decisions and the reasons for the decision.

Respectfully submitted,

John D. McArthur,
Chairman

January 22, 1975.

STATEMENT A

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR OIL AND GAS
dealt with in 1974

	CROWN	PRIVATE	TOTAL
Applications Received:			
Carried over from previous year	71	308	379
Received during the year	37	285	322
	108	593	701
Applications Disposed of:			
Right of entry granted - compensation determined	34	138	172
Settled independently of Board	1	3	4
Withdrawn - project not proceeded with	4	56	60
Rejected	-	-	-
Termination - no compensation	5	150	155
	44	347	391
APPLICATIONS OUTSTANDING:	64	246	310

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[illegible]

[illegible]

	[illegible]	[illegible]	[illegible]
[illegible]			
[illegible]	-	-	-
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SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR RIGHT OF ENTRY FOR QUARRYING LEASE
dealt with in 1974

Applications Received:	CROWN	PRIVATE	TOTAL
Carried over from previous year	1	-	1
Received during the year	-	-	-
	1	-	1
Applications Disposed of:			
Right of entry granted - compensation determined	NIL	NIL	NIL
Settled independently of Board	"	"	"
Withdrawn - project not proceeded with	1	"	1
Rejected	NIL	NIL	NIL
	1	-	1
APPLICATIONS OUTSTANDING:	0	0	0

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT FOR RIGHT OF ENTRY FOR OFF RIGHT OF WAY DAMAGES dealt with in 1974

Applications Received:	CROWN	PRIVATE	TOTAL
Carried over from previous year	-	2	2
Received during the year	-	2	2
	-	4	4
Applications Dispoed of:			
Right of entry granted - compensation determined	-	1	1
Settled independently of Board	-	-	-
Withdrawn - project not proceeded with	-	1	1
	-	2	2
APPLICATIONS OUTSTANDING:	0	2	2

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
ALL APPLICATIONS FOR RIGHT OF ENTRY
dealt with in 1974

Applications Received:	CROWN	PRIVATE	TOTAL
Carried over from previous year	72	315	387
Received during the year	37	287	324
	109	602	711
Applications Disposed of:			
Right of entry granted - compensation determined	34	143	177
Settled independently of Board	1	3	4
Withdrawn - project not proceeded with	5	57	62
Terminated - no compensation	5	150	155
	45	353	398
APPLICATIONS OUTSTANDING:	64	249	313

STATEMENT F

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT FOR TERMINATION OF RIGHT OF ENTRY IN FULL dealt with in 1974

Applications Received:	CROWN	PRIVATE	TOTAL
Carried over from previous year	8	5	13
Received during the year	36	201	237
	44	206	250
Applications Disposed of:			
Request for termination granted	33	184	217
Request for Termination withdrawn	-	-	-
Request for termination rejected	-	-	-
	33	184	217
APPLICATIONS OUTSTANDING:	11	22	33

SURFACE RIGHTS BOARD

SUMMARY OF APPLICATIONS UNDER THE SURFACE RIGHTS ACT
FOR TERMINATION IN PART OF RIGHT OF ENTRY
dealt with in 1974

Applications Received:	CROWN	PRIVATE	TOTAL
Carried over from previous year	1	2	3
Received during the year	4	1	5
	5	3	8
Applications Disposed of:			
Request for termination in part granted	3	1	4
Request for termination in part withdrawn	-	-	-
Request for termination in part rejected	-	-	-
	3	1	4
APPLICATIONS OUTSTANDING:	2	2	4

SURFACE RIGHTS BOARD

THE EXPROPRIATION PROCEDURE ACT
SUMMARY OF APPLICATIONS FOR EXPROPRIATION FOR PIPE LINES
dealt with in 1974

	CROWN	PRIVATE	TOTAL
Applications Received:			
Carried over from previous year (including Applications transferred from the Public Utilities Board in 1972)	11	166	177
Received furing the year	5	55	60
	16	221	237
Applications Disposed of:			
Expropriation granted - compensation determined	3	78	81
Rescinded	4	34	38
Settled independently of Board	-	-	-
Withdrawn	1	2	3
Terminated by Court Order	-	1	1
	8	115	123
Applications Outstanding:	8	106	114

SURFACE RIGHTS BOARD

THE EXPROPRIATION PROCEDURE ACT
SUMMARY OF APPLICATIONS FOR EXPROPRIATION FOR POWER LINES
dealt with in 1974

	CROWN	PRIVATE	TOTAL
Applications Received:			
Carried over from previous year (including Applications transferred from the Public Utilities Board in 1972)	-	60	60
Received during the year	-	1	1
	0	61	61
Applications Disposed of:			
Expropriation granted - compensation determined	-	23	23
Rescinded	-	2	2
Settled independently of Board	-	-	-
	0	25	25
Applications Outstanding:	0	36	36

THE EXPROPRIATION PROCEDURE ACT

SUMMARY OF ALL APPLICATIONS FOR EXPROPRIATION dealt with in 1974

	CROWN	PRIVATE	TOTAL
Applications Received:			
Carried over from previous year (including Applications transferred from the Public Utilities Board in 1972)	11	194	205
Received during the year	5	56	61
	16	250	266
Applications Disposed of:			
Expropriation granted - compensation determined	3	88	91
Rescinded	4	36	40
Settled independently of Board	-	-	-
Withdrawn	1	2	3
Terminated by Court Order	-	1	1
	8	127	135
Applications Outstanding:	8	123	131

STATEMENT K

SUMMARY OF APPEALS FROM DECISIONS OF THE BOARD TO THE COURTS UNDER THE SURFACE RIGHTS ACT

NOTICES OF APPEALS FILED

Year	By Companies	By Landowners or Occupants	Total
1967	4	2	6
1968	-	7	7
1969	1	5	6
1970	-	-	-
1971	1	3	4
1972	1	4	5
1973	-	1	1
1974	1	8	9
			-
			38

DISPOSITION OF APPEALS

Appeals completed:		
by District Court	6	
by Supreme Court of Canada	1	7
Judgments of District Court appealed to Appellate Division and completed		1
Settled out of Court		3
Abandoned		19
OUTSTANDING		8
		38

STATEMENT L

SUMMARY OF APPEALS FROM DECISIONS OF THE BOARD TO THE COURTS UNDER THE EXPROPRIATION PROCEDURE ACT

Year	By Companies	By Landowners or Occupants	Total
1971	1	-	1
1972	1	1	2
1973	-	3	3
1974	1	3	4
			10

DISPOSITION OF APPEALS

Appeals Completed:		
By District Court	1	1
Judgments of District Court appealed to Appellate Division and completed		1
Settled out of Court		1
Abandoned		4
Terminated by a Court Order		1
OUTSTANDING		2
		10

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